

Local Rules for First District Court of Appeals

Rule 1. Costs Deposit In Original Action

No complaint in an original action (mandamus, prohibition, procedendo, or quo warranto, or, except where prohibited by law, habeas corpus) may be accepted for filing in this Court unless the party bringing the action shall have first deposited with the clerk the sum of \$50.00 as security for the payment of the costs that may accrue in the action. Subpoenas may not issue for witnesses in actions in habeas corpus unless an additional deposit in the amount of \$10.00 as security for costs shall be deposited with the clerk together with the praecipe(s) for subpoena. Provided, however, that if the party bringing the action or the party seeking the attendance of witnesses makes and files with the clerk his sworn affidavit of inability to secure costs by such prepayment, the clerk shall, as appropriate, receive and file the complaint and subpoena the witnesses without such deposits. In the event the affidavit is filed by an inmate of a state institution it shall be accompanied, as an exhibit thereto, by a certificate of the superintendent or other appropriate officer of the institution setting forth the amount of funds if any, which the inmate may have on deposit with the institution available to the inmate to secure costs. If the certificate demonstrates that the inmate has sufficient funds available to him to secure costs the clerk shall not file the complaint until the costs are thus secured.

Rule 2. Evidence In Original Actions

Unless consent of the Court is otherwise obtained the evidence in all original actions, except actions in habeas corpus, shall be submitted to the Court by means of an agreed statement of facts, or stipulations, or depositions; and oral testimony will not be heard. The evidence in actions in habeas corpus shall be similarly submitted whenever practicable and where the interests of justice will not be defeated by delay. Court stenographers will not be in attendance at the trial of the action unless arranged for and employed by one or more of the parties and appointed by the Court, or unless, because of exceptional circumstance, otherwise ordered by the Court.

Rule 3. Designation Of Counsel

Every notice of appeal, pleading, motion, and brief filed shall have typed or printed thereon the name, attorney registration number, address, and telephone number, Fax number, and E-mail address of counsel filing the same (or party, if not represented by counsel), and when the counsel is a firm of attorneys, a particular attorney within the firm having primary responsibility for the case shall also be indicated. In addition, every notice of appeal shall have typed or printed thereon the name, attorney registration number, address, phone number, Fax number, and E-mail address of counsel of record of all other parties known to appellant. If counsel desires to withdraw, he shall, with his application showing good cause for withdrawal, submit proof of service of notice of withdrawal upon his client, and the name registration number, and address, telephone number, Fax number, and E-mail address of any substitute counsel, or, if none, the name and address of his client.

Amended May 2004

[] Indicates added language

Rule 4. Motions

A. Content and Entry. The content of motions, response, and reply shall be in the form prescribed by App.R. 15(A), and shall be accompanied by a form of entry or order, on a separate sheet, granting the relief sought by the motion.

B. Memoranda. Any motion to dismiss shall be accompanied by three copies of the memorandum in support thereof. Any party wishing to respond to such motion shall file three copies of a memorandum in opposition thereto within ten days after the filing of the motion to dismiss.

C. Oral Argument Precluded. All motions will be ruled upon without oral argument before the Court, except where the Court requests such argument and accordingly notifies counsel to appear.

Rule 5. Notification as to Record

In any appeal taken from a summary judgment or other judgment or final order of the trial court from which there is no transcript of proceedings to be filed, and where there is no narrative statement or agreed statement as described in App.R. 9 to be filed, counsel for the appellant shall notify the Court of such fact in writing within thirty (30) days of the filing of the Notice of Appeal.

Rule 6. Form and Content of Appellate Briefs

A. Form. Briefs shall be filed in quadruplicate (original and three copies) in conformance with App R 16, 19 and Local Rule 6 and shall be securely bound along the left margin. When staples are used to fasten the pages of the brief, they shall be covered to ensure that the staples do not protrude from the back of the brief. Briefs that are fastened with uncovered staples are subject to being stricken. Carbon copies are not acceptable without prior permission of the Court.

(Amended September 1, 1999)

1. Reference to the record. Suggested abbreviations for "transcript of the proceedings" and "transcript of the docket, journal entries and original papers" are "T.p." and "T.d." respectively. Where documents which are part of the latter are relied upon to support the assignment of error, and where such documents consist of more than one page, citation will be to the document number assigned by the Clerk of Court in preparing the transcript, followed by the page number integral to the document, e.g., "Defendant's deposition T.d. 10-50."

B. Content. The brief of the appellant, and, correspondingly, that of the appellee shall consist of four parts satisfying App.R. 16, as follows:

- I. Table of Contents and Assignments of Error
- II. Statement of the Case
- III. Argument
- IV. Conclusion

1. Appendices. It is not envisioned that appendices to the brief need normally be employed, and their use, generally, is discouraged. Where constitutions, statutes, ordinances, rules, regulations, or other authorities under Civ.R. 44.1 are in themselves dispositive of an assignment of error, or where local rules, resolutions, or similar matter are to be given consideration in connection with any assignment of error and where the latter are properly part of the record on appeal, copies thereof may be appended to the brief. It is emphasized, however, that an otherwise inadequate record cannot be cured by way of appendices.

a. Where extremely recent authority, e.g., a Federal slip opinion, is relied upon in the brief, the appending of copies may be useful.

b. There shall be appended to appellant's brief true and accurate copies of the final order(s) from which the appeal is taken and if available the trial court's opinion or decision or findings of fact and conclusions of law. Failure to provide this appendix may result in the brief being stricken.

(Amended September 1, 1993)

C. Substance

1. Table of Contents and Assignments of Error. The prime function of the Table of Contents is to list and index the Assignments of Error and Statement of Issues Presented for Review. It is to be noted that the full statement of the assignments of error and issues presented for review in the table of contents shall be deemed a satisfactory compliance with App.R. 16(A)(2) and (3), as applicable. See § C(2), *infra*. The secondary function of the table of contents is to list and index authorities cited. The assignments of error and issues presented for review will be set out in the form as hereinafter provided, Enclosure (1) hereto.

The table of contents shall also serve as and consist of a combined index and table of authorities, with page references for each item listed. Indented as numbered subparagraphs under each assignment of error shall be the issues presented for review applicable to that assignment. The authorities cited in support of said issue shall be set out in alphabetical order in a further indented subparagraph. For the form of assignments of error and issues presented for review, see § C(3) of this Rule, and the specimen table of contents, Enclosure (1) hereto. It is to be noted that the appellee may recast or substitute issues to support his contentions in demonstrating the absence of error.

2. Statement of the Case. App.R. 16(A)(3) requires the statement of the case to consist of the three components of procedural posture, issues presented for review, and factual basis thereof, and will be complied with by stating the case in two sections, each separately headed as a subparagraph, viz., Procedural Posture and Statement of Facts.

a. The Procedural Posture (inclusive of a statement of the case, the relief sought, the relevant procedural history and status of the litigation) shall be succinctly set out and should rarely require more than a paragraph. Normally, a chronology of the events leading to the complaint or commencement of trial is neither necessary nor desired. The purpose of subparagraph (a) is to convey a digest of those relevant, necessary, and essentially procedural events critical to the appeal and extracted from the record, thereby accurately describing "the course of proceedings and . . . disposition . . . below." App.R. 16(A)(3). The orders, entries, or other action of the court constituting the basis of the appeal (see §§ A(1), *supra*, and C(3)a, *infra*) may be reiterated, but in no event should there be inconsistency between the statement of and citation to the result below, in Part II of the brief, and the statement of that action of the court which is the basis of the appeal, and which is set out to form the basis of the assignment(s) of error in Part III of the brief.

b. The Statement of Facts consists of a recitation of those portions of the record which support the appellant's contentions. This statement of facts demonstrated by citation to the record (see § A(1), *supra*) may be segmented under appropriate headings, where more than one issue is presented for review, to provide a factual basis for determining the applicability of each successive issue presented.

3. Argument. The Argument shall comprise the main body of the brief, and shall be organized consistently with the Assignments of Error and Issues Presented for Review as set forth in the table of contents. The assignment(s) of error must be fully set forth verbatim, as shall the issues presented for review, as stated in the table of contents.

The assignment(s) of error shall assert precisely the manner in which the trial court is alleged to have erred, e.g., "THE TRIAL COURT ERRED IN OVERRULING APPELLANT'S MOTION TO SUPPRESS HIS CONFESSION FROM EVIDENCE." An assignment of error shall not be set forth as a proposition of law as envisioned by Rule V of the Rules of Practice for the Supreme Court of Ohio. Such a statement is wholly inappropriate at this appellate level.

a. The statement of the assignments of error is not complete for the purpose of Part III of the brief without citation to that portion of the record before the court on appeal wherein the lower court committed the error complained of, e.g., "The trial court erred in overruling plaintiff-appellant's motion for summary judgment (T.p. 25) or (Plaintiff's affidavit T.d. 50, T.d. 100)."

b. The issues applicable to each assignment of error shall be stated verbatim and in the same order as in the table of contents, and the argument under each assignment of error shall be

organized accordingly. The issues presented for review are akin to the propositions of law contemplated by Rule V of the Rules of Practice of the Supreme Court of Ohio, and may be set out accordingly.

4. Conclusion. The conclusion may briefly summarize the argument and shall state the precise relief sought on appeal.

D. Citations

1. Electronic Format. Citations to an opinion, decision, or judgment entry that is in electronic format need not be attached to a brief or memoranda.

2. Unavailable in Electronic Format. Those citing unpublished opinions, decisions, or judgment entries not available in electronic format shall attach a legible copy to the brief or memorandum in which they are cited and shall indicate the status of any appeal or disposition by the Ohio Supreme Court.

3. Citation Form. All citations to authorities in briefs or memoranda shall be in accordance with the Manual of Citation adopted by the Ohio Supreme Court Reporter. The Manual of Citation is available online at www.sconet.state.oh.us/ROD.

(Amended May 2004)

E. Failure to Comply. Counsel are cautioned that a failure to comply with this Rule may result in the brief being stricken on motion or sua sponte, and/or in the dismissal of the appeal.

(Amended June 1, 1978; February 1, 1982.)

First Appellate District of Ohio—Local Rule 6 Enclosure (1)

(Specimen)

TABLE OF CONTENTS AND ASSIGNMENTS OF ERROR PAGE

First Assignment of Error..... 10

The trial court erred to the prejudice of defendant-appellant in overruling his motion for directed verdict made at the close of plaintiff-appellee's case.

Issue(s) Presented for Review and Argument..... 11

1. In an action for damages predicated on breach of contract, where the record fails to show any evidence that the contract was supported by legally sufficient consideration, the plaintiff has failed to establish an essential element necessary for a prima facie case, and judgment must be entered for the defendant upon appropriate motion therefor.

Authorities

ABC CORP. v. DOE, 178 Ohio St. (1965)..... 11

R.C.2401.01..... 11

59 O Jur 2d Evidence § 101 (1975)..... 12

Second Assignment of Error..... 13

The trial court erred to the prejudice of defendant-appellant in admitting into evidence, over his objection, testimony that plaintiff-appellee "probably" suffered \$9,000 lost profits.

Issue(s) presented for Review and Argument..... 13

1. Non-expert opinion testimony and uncorroborated speculations as to lost profits are incompetent as evidence of damages.

Authorities

Black, Evidence in a Nutshell..... 14

1 CHASE L. REV 1 (1975) V. Black, Evidentiary Aspects of The Necessity For A Causal Relationship Between Breach of Contract and Damages, in COLLECTED LEGAL PAPERS 101 (1975)

Third Assignment of Error..... 15

The trial court erred to the prejudice of defendant-appellant in overruling his motion for judgment notwithstanding the verdict.

Issue(s) Presented for Review and Argument..... 15, 11

1. A judgment for damages predicated upon breach of contract is contrary to law where the record contains no evidence of legally sufficient consideration.

Authorities

Civ.R. 50(B)..... 15

4 KONT Ann. Rep. 101 (1975)..... 16

2. A judgment for \$10,000 damages predicated upon breach of contract is contrary to the manifest weight of the evidence where the record shows only \$1,000 actual damages.

Authorities

ABC CORP. v. XYZ CORP., No. 74001..... 17

(1st Dist. January 1, 1974)

DOE v. ROE, 61 Ohio App.3dn 1000, 2003-Ohio-1000..... 18

(Common Pleas 1970)

Rule 7. Presiding/Administrative Judge

The Court shall elect one judge to serve as both presiding judge and administrative judge for one year, beginning on the first day of January, as provided in Rules 3 and 4 of the Rules of Superintendence for the Courts of Ohio (hereinafter “Sup.R. ____”). The presiding/administrative judge shall perform the duties set forth in Sup.R. 3(B) and 4(B), except as to Sup.R. 4(B)(7), which shall be the responsibility of the joint session of the Court. If the Court is unable to elect the presiding/administrative judge, the Court shall proceed according to Sup.R. 3(A) and 4(A).

(Amended, eff. January 1, 1998)

Rule 8. Effective Date and Applicability

These rules shall take effect January 1, 1976. They shall govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending except to the extent that, in the opinion of the Court, their application in a particular action pending when these rules take effect would not be feasible or would work an injustice.

Rule 9. Oral Argument

Effective February 14, 1977, and until further order of this Court, in accordance with Appellate Rule 21(B) amended July 1, 1976, oral argument shall be reduced from thirty (30) minutes per side to fifteen (15) minutes per side.

In those cases wherein counsel deems additional time is needed, counsel shall file a motion requesting the additional time and shall set forth the reasons why such additional time is sought.

Counsel shall file said motion within the time provided for filing his brief. Any party opposing such motion shall file his response within ten (10) days, as provided in the Appellate Rules.

Further, in those cases wherein the Court, sua sponte, has determined additional time is needed, the Court shall advise counsel, as to the time established.

(Added February 4, 1977)

Rule 10. Docket Statement and Scheduling Order

A. Civil Docket Statement. In each civil appeal or original action filed in the First District Court of Appeals, counsel for the appellant (or the appellant when unrepresented and acting pro se) shall complete Form II, Civil Docket Statement (see App.R. 3(F); see also Appendix of Forms), and where a transcript of proceedings will be necessary, shall cause the court reporter to complete and sign the Court Reporter's Certification thereon. Simultaneously with filing the Notice of Appeal, Form II shall be filed in duplicate by counsel for the appellant (or by the appellant if pro se) with the clerk of the trial court. See Local Rule 12. Failure to file the designated form shall result in a dismissal of the appeal.

Subsequent to the filing of Form II, this Court may set the appeal for conference. The conference may include a discussion of: (1) the finality of the order being appealed; (2) type of record to be filed; (3) probable time required to complete preparation of the record on the appeal; (4) assignment of error and issues to be raised; (5) any prior decisions on similar issues; (6) time needed for briefing; (7) the identity and address of all counsel involved; (8) other matters relating to the case.

B. Criminal Docket Statement. In every criminal appeal filed in the First District Court of Appeals, counsel of record for the appellant (or the appellant when unrepresented and acting pro se) shall complete Form I, Docket Statement (see App.R. 3(F); see also Appendix of Forms), and where a transcript of proceedings will be necessary, shall cause the court reporter to complete the Court Reporter's Certification thereon. Simultaneously with the filing of the Notice of Appeal, Form I shall be filed by counsel for the appellant (or by the appellant if acting pro se) in duplicate with the clerk of the trial court. See Local Rule 12. Failure to file the designated form shall result in show cause proceedings to be issued in this Court against counsel of record and/or dismissal of the appeal.

C. Scheduling Orders. Upon receipt of the Criminal Docket Statement, Form I or upon receipt of the Civil Docket Statement, Form II and/or upon conclusion of the pre-appeal conference, the Court will issue a Scheduling Order of events on the appeal. See, however, Local Rule 12 regarding accelerated calendar. This Order will be modified only upon written motion establishing good cause. An unexcused failure of the appellant to meet the schedule as set forth in the Order shall result in a dismissal of the appeal. If the appellee fails to file his brief within the time provided by the Scheduling Order or a time extended, he will not be heard at oral argument except

by permission of the Court upon a showing of good cause submitted in writing prior to argument; and in determining the appeal, the Court may accept the appellant's statement of the facts and issues as correct and render appropriate relief thereon, if the complying party's brief and record appear to sustain such action.

(Amendment effective August 1, 1982)

Rule 11. Length of Briefs

No initial and no answer brief of the parties shall exceed thirty-five (35) pages in length, exclusive of the Table of Contents and Assignments of Error and of appendices, if any. Reply briefs shall be restricted to matters in rebuttal of the answer brief, and shall not exceed ten (10) pages in length, exclusive of the Table of Contents and appendices, if any. These maximums may be exceeded only with permission of the Court granted upon written application and for good cause shown. Unnecessary length may be avoided by careful analysis of the issues and succinct exposition of facts and law.

(Added August 1, 1982)

Rule 12. Accelerated Calendar

The Court hereby adopts an accelerated calendar as set forth in App.R. 3, 10 and 11.1, subject to the following operating provisions:

1. In conformance with Local Rule 10, counsel for the appellant shall file a docket statement with the notice of appeal. The clerk of the trial court shall transmit the docket statement with the notice of appeal to the clerk of this Court and shall send to the appellee a copy of the docket statement and a copy of the notice of appeal. Docket statement forms as prescribed by the Court will be available in the clerk's offices. If the docket statement is not filed with the notice of appeal, the clerk of the trial court shall forthwith forward the notice of appeal to the clerk of the Court of Appeals as well as comply with the Appellate Rules regarding service of the Notice of Appeal. Pursuant to Local Rule 10, such failure to file the docket statement may result in a dismissal of the appeal and/or contempt proceedings against counsel for the appellant.

2. Based upon a review of the docket statement and pursuant to App.R. 3(F), this Court may issue a scheduling order accelerating the appeal.

3. Counsel for the appellant or appellee may within fourteen days after the filing of the complete record, file a motion requesting that the appeal be removed from the accelerated calendar. The motion shall be supported by a memorandum, setting forth with specificity, the reasons for the request. The memorandum should provide the Court with the specific good cause, including but not limited to, the uniqueness of the issues to be raised; whether the case involves constitutional questions and what those questions are, and the assignments of error. Counsel are cautioned that the sheer length of the record alone may not be sufficient justification to remove a cases from the accelerated calendar.

Opposing counsel shall have ten days from the filing of the motion to file a response. The filing of the motion to remove neither tolls nor extends the time for the filing of briefs. Failure to timely file the motion shall be deemed sufficient reason to deny the motion. If, upon a review of the record and briefs, the Court determines that the appeal should not be accelerated, it will be removed from the accelerated calendar and placed on the regular calendar.

(Amended September 1, 1999)

4. All briefs filed in an appeal that has been accelerated shall conform to Local Rule 6 of this Court as to form and content; however, said briefs shall not exceed fifteen (15) pages excluding table of contents and appendices, if any.

5. Oral argument will apply as provided by Local Rule 9. If counsel wishes to waive oral argument, said request

must be submitted to the Court and opposing counsel at least three (3) days prior to the merit setting. The Court reserves the right to accept or reject a request for submission without argument.

6. Pursuant to App.R. 11.1(E), the Court in its decision may state the reason for its ruling on each assignment of error in brief and conclusionary form. The decision may be by judgment entry, in which case it will not be published in any form. See App.R. 11.1(E).

(Added August 1, 1982,)

Rule 13. Reporting of Opinions

Added March 1, 1983. [Repealed April 2003]

Rule 14. Court Security

The First District Court of Appeals is an intermediate appellate Court.

Accordingly, appropriate levels of security should exist in the Court to protect the integrity of Court procedures, protect the rights of individuals before it, deter those who would take violent action against the Court or the litigants, sustain the proper decorum and dignity of the Court, and assure that the Court's facilities are secure for all those who visit and work there.

Therefore, effective June 30, 1995, pursuant to Rule 5 of the Rules of Superintendence for the Courts of Appeals, the Court does hereby adopt the June 30, 1995 amendment by the Court of Common Pleas of Hamilton County to its Local Rule 33(D) i.e. the Court Security Plan of the Hamilton County Court of Common Pleas Facilities Committee.

(Added June 30, 1995)

Rule 15. Appointment of Counsel

Appointment of counsel to represent indigent defendants in criminal appeals shall be based upon a list provided by the Hamilton County Public Defender's office, which shall include all attorneys who have previously indicated their willingness to provide such representation, as well as all attorneys who have presented themselves to the Court as willing to provide such representation.

The manner and rate of compensation of appointed attorneys shall be according to guidelines established by the Hamilton County Public Defender's Commission. The Court shall annually review its appointments to ensure an equitable distribution of appointments among all persons on the appointment list. In the selection process, the Court may, as permitted by Sup.R. 8, consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload.

(Added, eff. January 1, 1998)

RULE 16. Electronic Transmission Filings

A. Facsimile Filings. In conformity with App Rule 13 and effective upon approval by the Ohio Supreme Court Committee on Technology and the Courts, pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission subject to the following conditions:

1. Definitions. The following terms in this Rule shall be as follows:

a. Facsimile transmission – means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

b. Facsimile machine – means a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system.

c. Fax or faxes – an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

d. Source document – means the document transmitted to the court by facsimile machine/system.

e. Effective Original document – means the facsimile copy of the source document received by the Clerk of Courts and maintained as the original document in the court’s file.

f. Effective Date and Time of Filing - means the date and time the filing has been received as indicated at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment.

2. Application of Rules and Orders. This Local Rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the First District Court of Appeals for Hamilton County, Ohio, assumes any new or additional responsibilities, obligations or liabilities by virtue of this Local Rule, except as expressly provided for herein. Further, this Local Rule pertains only to the method of filing; it does NOT override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Appellate Procedure respecting the requirements of any filings such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

3. Filings Not Accepted. This Rule authorizes the filing of facsimile transmissions of all pleadings, motions and other documents not exceeding ten pages (see Section Six (6)) that may otherwise be filed with the Clerk of Courts but anything stated or implied above to the contrary notwithstanding, the following documents may NOT be filed by facsimile transmission:

a. any filing commencing an appeal or action (e.g., Notice of Appeal, Notice of Cross Appeal or Original Action) for which the Clerk of Courts must collect an initial case deposit against costs or a specific filing fee and

b. briefs and/or records.

4. Cover Page. The person filing a document by fax shall provide therewith a cover page containing the following information:

a. the case number;

b. the caption of the case;

c. the assigned judge (or indicate none);

d. a description of the documents being filed;

e. the date of transmission;

f. the transmitting fax number;

g. an indication of the number of pages included in the transmission, including the cover page. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, it will be deposited in the case jacket but shall not be entered into the Case Docket and shall be considered to be a nullity and thereby stricken. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.

5. Facsimile Machine. The telephone number of the facsimile machine available for receiving fax filings for the Appellate Division of the Clerk of Courts is 513-946-3744. These lines are available twenty-four (24) hours per day seven (7) days per week. Fax filings may NOT be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts. Transmissions sent to any other location are not covered by nor permitted under this Local Rule. Copies of filings otherwise properly filed with the Clerk of Courts, however, such as courtesy copies for the Court, may be sent by facsimile directly to the Court, but any such transmittals shall not be considered as having been filed thereby.

6. Document Restrictions. A "fax transmission", as referred to in this Local Rule, may contain more than one (1) document but may not apply to more than one (1) case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall not be accepted for fax filings. Motions and other filings shall not exceed ten (10) pages.

7. Fees. There are no additional costs or fees related to facsimile transmissions except to the extent that the filings are taxed as cost to any case.

8. Filing Acceptance or Rejection. The Clerk of Courts is hereby authorized to reject any facsimile transmission filing if the sender fails to provide the Cover Page required under Section Four (4) of this Rule or if the transmission contains a filing not acceptable under Section Three (3) of this Rule.

9. Date and Time. Subject to the other provisions of this Local Rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision and for entering such filings into the electronic Case Docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filings by the Clerk of

10. Courts through whatever technological means are then available, such as the activity register or report function of the transmitting equipment.

11. Original Filing. A document filed by fax shall be accepted as the effective original filing if the person sending the fax complies with all of the requirements set forth in this Local Rule. The person making a fax filing need not file any source document with the Clerk of Courts. However, until the case is closed and all opportunities for post judgment relief are exhausted the filer must maintain in their records and have available for production on request by the Court or Clerk the source document of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.

12. Signatures. Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.

B. Internet Electronic Filings. In conformity with App Rule 13 and Courts, pleadings and other papers may be filed with the Clerk of Courts electronically via the Internet, subject to the following conditions:

1. Definitions. The following terms in this Rule shall be as follows:

a. Electronic Filing – (E-filing or efileing) The process of transmitting a digitized source document electronically via the Internet to the Clerk's office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.

b. Electronic Mail – (Email or e-mail) Messages sent by a user and received by another through an electronic service system utilizing the public Internet.

c. Source document – means the document transmitted to the court via the Internet.

d. Original document – means the transmitted copy of the source document received by the Clerk of Courts and maintained in the court's file.

e. Date and Time of Filing - means the date and time the filing has been received, as indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts, unless rejected and not corrected. (See Filing Acceptance or Rejection Cycle below.)

2. Application of Rules and Orders. Unless modified by approved stipulation or order of the Court or a judicial officer, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, Ohio Rules of Appellate Procedure and Local Rules and orders of the Court shall continue to apply to documents electronically filed.

3. Filings Not Accepted. Any Entry that must be signed by a Judge of the court or any filing for which a party is obligated to settle final case costs will not be accepted for electronic filing.

4. Account Assignment. Upon receipt of the properly executed and signed User Agreement Form and Credit Card Authorization Form and the deposit of required funds into the Clerk's copy cost account at the Clerk of Court's office, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing documents. Electronic filers using third party electronic filing providers will not be assigned a user-id or password and will not be required to maintain a copy cost account.

5. Hours of Operation. Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the receiving device of the Clerk of Courts received the entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement.

6. Document Format. Documents submitted must be in a digitized format specified by the Clerk of Courts as set forth in the online Guide to Electronic Filing.

7. Fees. Normal filing fees and case deposits will be collected via user credit card at the time the filing is processed by the Clerk of Courts. Copy costs will be charged against the copy cost account at the time the filing is processed by the Clerk of Courts. Filings made using third party electronic filing providers will be charged copy costs via credit card at the time the filing is processed by the Clerk of Courts. The Clerk of Courts will, from time to time, establish and publicize the rules and regulations governing the requirements for maintaining the copy cost accounts.

8. Filing Acceptance or Rejection Cycle. A confirmation number will be assigned to each filing when it is received in its entirety by the receiving device of the Clerk of Courts. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing. Filers using third-party electronic filing providers will not have the confirmation number and date and time of filing displayed on the screen, but must wait for the confirmation electronic mail message from the Clerk of Courts to obtain the confirmation number and date and time of filing. Upon successful processing of the filing by the Clerk of Courts, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer. Filers will be notified via electronic mail if the filing is rejected for any reason. A rejected filing may be resubmitted via electronic mail to the Clerk of Courts in order to retain the original date and time of filing. Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Courts within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Courts in order to retain the original date and time of filing and confirmation number. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hours period

expires such a filing will be considered a new filing and the prior confirmation will have expired.

9. Electronic Filed Stamp. Upon successful completion of acceptance processing by the Clerk of Courts a document filed electronically will be electronically filed stamped. This stamp will include the date and time that the receiving device of the Clerk of Courts received the entire transmission as well as the confirmation number of the filing. A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection e-mail. (See Filing Acceptance or Rejection Cycle above.)

10. Disposition and Maintenance of Source Documents. A document electronically filed shall be accepted as the original filing if the person filing electronically complies with all of the requirements set forth in this Local Rule. The person filing electronically need not file any copy with the Clerk of Courts but must maintain in his or her records, and have available for production on request by the Court, the Clerk of Courts or other counsel, the source copy of any document electronically filed. The filer must maintain this source document until the final disposition of the case and through any appeal period.

11. Public Method of Access to Electronically Filed Public Documents. Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper. Public access to electronically filed public documents will be available via the Internet web site of the Clerk of Courts as soon as the Clerk of Courts has processed the document. If Internet web site access is unavailable or is not provided by the Clerk of Courts, or if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available at one or more offices of the Clerk of Courts, either by computer terminal or in paper form in the case jacket or on microfilm. However, if a document or case record is sealed or expunged it is unavailable for public disclosure.

12. Operating Procedures and Instructions. The Clerk of Courts is authorized to prepare and maintain operating procedures and instructions for electronic filing.

(Amended and restated, eff. October 1, 2004)

Rule 17. Adoption of Local Rules

In accordance with the requirement in Sup.R. 5(A)(2) that a court provide appropriate notice and an opportunity to comment on proposed local rules prior to their adoption, proposed local rules of this Court shall be submitted to the local legal newspaper to be published for thirty days. As permitted by Sup.R. 5(A)(2), if the Court determines that there is an immediate need for the rule, the Court may adopt the rule without prior notice and opportunity for comment, but promptly shall afford opportunity for notice and comment.

(Added, eff. January 1, 1998)

Rule 18. Court Record Retention

Court Record Retention Pursuant to SUP. R. 26

The purpose of this rule is to establish a system for court records management and retention, to provide the minimum standards for the production, maintenance, preservation and destruction of records within the courts and to authorize alternative electronic methods and techniques for records preservation. The adoption of this rule is consistent with the Ohio Supreme Court's Superintendence Rule 26 and the adoption thereof by the Hamilton County Records Commission.

In accordance with division (a) of this rule, the First District Court of Appeals hereby adopts Sup. R. 26 in its entirety, and in special reference to the records of the First District Appeals Court, adopts Sup. R. 26.02, which governs the administration of the records created by the First District Appeals Court.

(Added, eff. December 1, 1999)

The following rule has been added to the Local Rules of the First District Court of Appeals, effective July 1, 2009.

RULE 19. CONTENT OF THE NOTICE OF APPEAL. In each appeal where the use of personal identifiers is proscribed by statute or any Superintendence Rule, counsel for the appellant or the appellant, if unrepresented, shall identify the party or parties by initials in lieu of proper names when filing the notice of appeal and all subsequent pleadings. In those instances where multiple parties in the same case share the same initials, a numeral shall be added to the end of the initials to distinguish the parties (i.e. A.B.1, A.B.2, and A.B.3). “Personal identifiers” means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile’s name in an abuse, neglect, or dependency case, except for the juvenile’s initials or a generic abbreviation such as “CV” for “child victim.”

Effective July 1, 2009